

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

C. C., as Parent and Legal Guardian of Jane  
Doe, a minor,

Plaintiff,

Case No. 1:23-cv-255

v.

HONORABLE PAUL L. MALONEY

MARCELLUS COMMUNITY  
SCHOOLS, et al.,

Defendants.

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**ORDER REGARDING MOTION TO DISMISS**

Defendant Robert Dietzel filed a motion to dismiss (ECF No. 11) in which it is argued that Plaintiff has failed to allege sufficient facts to support one or more of the claims in the complaint. If true, the claim or claims would be defective under the Supreme Court's plausibility standard. *See Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

The Court reviewed the motion. Without expressing any view as to the merits, the Court affords Plaintiff the opportunity to cure the allegedly inadequate pleading by granting Plaintiff leave to file an amended complaint, as allowed by Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. An amended complaint must plead sufficient factual allegations that, if true, would "plausibly give rise to an entitlement to relief." *Iqbal*, 556 U.S. at 680. If Plaintiff timely files an amended complaint, the Court will deny without prejudice the motion

to dismiss as moot. *See Bancoult v. McNamara*, 214 F.R.D. 5, 13 (D.D.C. 2003). If Plaintiff does not timely file an amended complaint, Plaintiff must file a response to the motion to dismiss, and the Court will decide the motion.

Plaintiff must file either an amended complaint within twenty-one days after Dietzel filed the motion to dismiss, Fed. R. Civ. P. 15(a)(1)(B), or Plaintiff must file a response to the motion to dismiss within twenty-eight days after the motion was filed, W.D. Mich. LCivR 7.2(c).

**IT IS SO ORDERED.**

Dated: May 16, 2023

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge